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REMARKS

Upon entry of the present amendment, claims 3, 4 and 6 will remain pending in the application. Claims 3, 4 and 6 will be amended, and claims 1, 2, 5, and 7-10 will be canceled (claims 5 and 9 having previously been canceled). Entry of the present amendment, reconsideration of the rejection and allowance of the pending application in view of the following remarks are respectfully requested.

In the Final Office Action, the Examiner rejected claims 1, 3 and 4 under 35 U.S.C. § 102(b) as being anticipated by Brace et al. (U.S. Patent No. 6,187,005). Applicants respectfully traverse the rejection for at least the following reasons.

Upon entry of the present amendment, claim 1 will be cancelled, merely to expedite prosecution of the present application to issue. Thus, Applicants' cancellation of claim 1 should not be viewed as a concession by Applicants to the propriety of the rejection.

In the specification of the present application, Applicants disclose a rod connector which includes a rod supporting portion configured for supporting a rod. The rod supporting portion includes convex portions at both ends of the rod supporting portion. Each convex portion includes a sharp distal end configured to be embedded into the rod. A supporting surface of the rod supporting portion includes a rough surface.

Brace is directed towards a spinal fixation system which includes a connector member 12 for connecting a fastener 14 to a rod 16. See col. 13, lines 10-16 and Figure 1. In the Final Office Action, the Examiner asserts that Brace's connector

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member 12 corresponds to Applicants claimed "rod supporting portion." The Examiner broadly asserts (citing almost the entire disclosure for support) that Brace's connector member 12 includes convex portions at both of its ends which include a sharp distal end configured to be embedded a rod, and that a supporting surface of Brace's connector member 12 includes a rough surface.

Applicants respectfully submit that Brace's connector member 12 includes neither of these features, and submit that the Examiner has not particularly pointed out a specific portion of the reference to support his assertion regarding these features.

Applicants respectfully submit that Brace fails to disclose or suggest a rod connector which includes a rod supporting portion configured for supporting a rod, where the rod supporting portion includes convex portions at both ends of the rod supporting portion, and each convex portion includes a sharp distal end configured to be embedded into the rod, as recited in claim 3.

Applicants respectfully submit that Brace also fails to disclose or suggest a rod connector which includes a rod supporting portion which includes a rough surface, as recited in claim 4.

For at least these reasons, Applicants respectfully submit that the rejection of claims 3 and 4 is improper, and respectfully request withdrawal of the rejection and allowance of the claims.

In the Final Office Action, the Examiner rejected claim 6 under 35 U.S.C. § 103(a) as being unpatentable over Brace et al. in view of Fujita et al. (U.S. Patent No. 5,743,669). Applicants respectfully traverse the rejection for at least the following

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reasons.

In the specification of the present application, Applicants disclose a rod connector which includes a connector main body swingably attached to a shank. A rear end of the shank includes a flange portion for preventing removal of the shank from an engaging member.

In the Office Action, the Examiner asserted that Brace's stem 18 corresponds to Applicants' claimed "shank". In the Office Action, the Examiner acknowledged that Brace does not disclose that a rear end of the stem 18 includes a flange portion for removal of the stem from an engaging member. However, the Examiner asserted that this feature is obvious in view of Fujita. Applicants respectfully disagree.

Fujita is directed towards a ball stud 11 which includes a flange portion 22a which holds a dust cover 15 to an end face 25b of a bearing seat 14. See Figure 1 and col. 5, lines 38-45. Applicants respectfully submit that there is no motivation to add a dust cover to Brace's stem 18, and thus there is no motivation to add a flange portion to Brace's stem 18.

Thus, Applicants respectfully submit that one of ordinary skill in the art would not be motivated to combine the teachings of Brace and Fujita to arrive at a rod connector which includes a connector main body swingably attached to a shank, where a rear end of the shank includes a flange portion for preventing removal of the shank from an engaging member, as recited in claim 6.

For at least these reasons, Applicants respectfully submit that the rejection of claim 6 is improper, and respectfully request withdrawal of the rejection and allowance

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of claim 6.

Based on the above, it is respectfully submitted that this application is now in condition for allowance, and a Notice of Allowance is respectfully requested.

SUMMARY AND CONCLUSION

Applicants recognize that the current status of the present application is after Final. However, Applicants respectfully submit that entry of the present amendment is proper under the current circumstances. Applicants respectfully submit that the present amendment does not raise new issues requiring further search and/or consideration, as the amendments herein merely cancel claims and place claims into independent form. Applicants further submit that the Office Action dated October 13, 2005 should not have been made final, as it failed to specifically address the features of claims 3 and 4, as Applicants pointed out above.

Entry and consideration of the present amendment, reconsideration of the outstanding Office Action, and allowance of the present application and all of the claims therein are respectfully requested and now believed to be appropriate. Applicants have made a sincere effort to place the present invention in condition for allowance and believe that they have now done so.

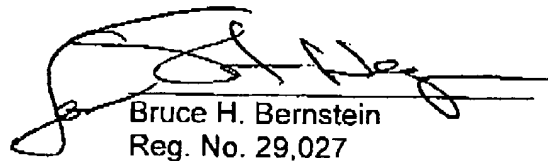
Any amendments to the claims which have been made in this amendment, and which have not been specifically noted to overcome a rejection based upon the prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

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Should an extension of time be necessary to maintain the pendency of this application, including any extensions of time required to place the application in condition for allowance by an Examiner's Amendment, the Commissioner is hereby authorized to charge any additional fee to Deposit Account No. 19-0089.

Should the Examiner have any questions or comments regarding this response, or the present application, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully submitted,
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